

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0350**

State of Minnesota,
Respondent,

vs.

Juan Eduardo Rodriguez Morales,
Appellant.

**Filed December 11, 2023
Affirmed in part, reversed in part, and remanded
Gaïtas, Judge**

Freeborn County District Court
File No. 24-CR-19-1320

Keith Ellison, Attorney General, St. Paul, Minnesota; and

David J. Walker, Freeborn County Attorney, Abigail H. Lambert, Assistant County Attorney, Albert Lea, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Michael McLaughlin, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Gaïtas, Presiding Judge; Slieter, Judge; and Frisch, Judge.

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

Appellant Juan Eduardo Rodriguez Morales appeals the district court's denial of his petition for postconviction relief. He argues that the district court erred in rejecting his postconviction claims of ineffective assistance of counsel, violation of the terms of his plea

agreement, and unlawful imposition of lifetime conditional release. Because we conclude that Rodriguez Morales was not prejudiced by his attorney's performance and that the district court did not violate the plea agreement by revoking Rodriguez Morales's release pending sentencing, we affirm the denial of postconviction relief on those grounds. But because the district court erred by imposing a lifetime term of conditional release, we reverse and remand for resentencing.

FACTS

Rodriguez Morales pleaded guilty to two counts of first-degree criminal sexual conduct and was sentenced to a lengthy prison term to be followed by conditional release. After sentencing, he filed a direct appeal to this court but then stayed the appeal to pursue postconviction relief. Rodriguez Morales filed a postconviction petition in the district court, which challenged his guilty pleas and one of his sentences, and he moved for an evidentiary hearing. The district court held an evidentiary hearing but ultimately denied Rodriguez Morales's petition on its merits.

Rodriguez Morales reinstated his appeal, and he now challenges the district court's denial of his postconviction petition. Before turning to the legal issues that he raises on appeal, we summarize the proceedings below.

Rodriguez Morales's Guilty Pleas

Respondent State of Minnesota charged Rodriguez Morales with eight counts of first-degree criminal sexual conduct and two counts of second-degree criminal sexual conduct after two of his stepdaughters reported that he had sexually abused them over an extended period. The state notified Rodriguez Morales that it intended to seek aggravated

sentencing departures. Rodriguez Morales, who was represented by counsel, pleaded not guilty to the charges and demanded a jury trial. On the second day of trial, and after both victims testified, the parties reached a plea agreement. Rodriguez Morales pleaded guilty to two counts of first-degree criminal sexual conduct—one count for each victim—while maintaining his innocence of the charges pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970).¹ In exchange, the state dismissed the remaining charges and agreed that Rodriguez Morales could remain in the community on conditional release pending sentencing. Although there was no agreement as to the sentence that Rodriguez Morales would receive, the state agreed that he could request probation, which would require a downward dispositional departure from the presumptive prison sentences for the two offenses. The state also agreed that it would not seek more prison time than called for by the sentencing guidelines.

Rodriguez Morales was born in Mexico and is not a United States citizen. He is a legal permanent resident of the United States who has lived in this country for over 30 years. During the guilty-plea hearing, his attorney asked whether he understood that “if certain outcomes occur here that you would likely be subject to deportation,” and Rodriguez Morales responded, “Yes.”

The district court accepted the pleas and adjudicated Rodriguez Morales guilty of both counts. Following the guilty pleas, the district court allowed Rodriguez Morales to

¹ Such a guilty plea, which is known as an “*Alford* plea,” allows a district court to accept a defendant’s guilty plea, even though the defendant maintains innocence. *Alford*, 400 U.S. at 37-38. The Minnesota Supreme Court approved the use of *Alford* pleas in Minnesota in *State v. Goulette*, 258 N.W.2d 758, 760-61 (Minn. 1977).

remain in the community on conditional release pending sentencing and ordered him to participate in a presentence investigation (PSI) and psychosexual evaluation.

Before sentencing, the Minnesota Department of Corrections informed the district court that Rodriguez Morales had not completed the psychosexual evaluation or the chemical-dependency evaluation required as part of the PSI process. The district court held two sentencing hearings.² At the first hearing, the prosecutor advised the district court that Rodriguez Morales had also violated the conditions of his release by continuing to drink alcohol and having contact with children. The district court revoked Rodriguez Morales's conditional release based on his lack of cooperation with conditions and "in the interest of public safety," and Rodriguez Morales was taken into custody. He remained in jail until the second sentencing hearing, less than a month later.

At sentencing, the district court denied Rodriguez Morales's request for a downward dispositional departure to probation and imposed two consecutive prison sentences of 172 months—one for each conviction. The district court also imposed a ten-year conditional-release term following the prison sentence for one conviction, and a lifetime conditional-release term following the second conviction.

² The sentencing hearing was originally scheduled to occur in November 2022. But because the PSI was filed just before the hearing, the district court bifurcated the sentencing proceeding to give Rodriguez Morales more time to review the PSI. At the first hearing, the district court received victim-impact statements and heard testimony from Rodriguez Morales's character witnesses. At the second hearing three weeks later, the district court sentenced Rodriguez Morales.

Postconviction Proceedings

In his postconviction petition, Rodriguez Morales claimed that the attorney who had represented him at trial and during the guilty-plea and sentencing hearings provided ineffective assistance of counsel by (1) failing to inform him that he faced mandatory deportation as a result of his guilty pleas to first-degree criminal sexual conduct and (2) insufficiently explaining that, under the terms of his plea agreement, he could receive consecutive sentences. Additionally, Rodriguez Morales alleged that the district court violated the terms of his plea agreement by revoking his conditional release before sentencing.

At the evidentiary hearing on his petition, Rodriguez Morales called as witnesses his trial attorney, another attorney who assisted his trial attorney, and a former girlfriend. Rodriguez Morales also testified. The focus of the testimony was the information that the trial attorney had provided to Rodriguez Morales regarding the immigration consequences of pleading guilty and sentencing possibilities.

Rodriguez Morales's trial attorney testified that he consulted with an immigration attorney at the outset of his representation of Rodriguez Morales, and then discussed with Rodriguez Morales "deportation . . . depending upon the types of pleas and resolutions that could be reached." He testified that he understood Rodriguez Morales "would be deported" to a "hundred percent certainty" if convicted following a trial and sentenced to prison. But he advised Rodriguez Morales that by accepting the plea agreement, there would be an "opportunity to try to reach an outcome to give him a chance at probation and a chance at an argument before a federal judge on immigration." The attorney testified that he

informed Rodriguez Morales that avoiding deportation would be unlikely “but that there was a possible argument that could . . . be made.” Although the attorney did not use the term “consecutive” in explaining to Rodriguez Morales the potential sentences he faced, the attorney testified that he explained the total duration of possible sentences.

According to the trial attorney, he encouraged Rodriguez Morales to continue with the trial rather than plead guilty. He advised Rodriguez Morales that there was no guarantee of probation. But Rodriguez Morales chose to accept the state’s plea offer.

The second attorney who had assisted Rodriguez Morales’s attorney recalled being present for a discussion regarding the immigration consequences of the guilty pleas. That attorney testified that Rodriguez Morales was advised that “a guilty verdict on all of the counts would be an automatic deportation and that there was a possibility of avoiding deportation risk if he pleaded [guilty].” He recalled that Rodriguez Morales was informed of the risk of consecutive sentencing.

Rodriguez Morales and his former girlfriend testified that Rodriguez Morales’s attorney did not advise that Rodriguez Morales would be deported if he received probation after pleading guilty or that Rodriguez Morales faced consecutive sentences. Rodriguez Morales also testified that, if he had known he would be deported even if he received a probationary sentence, he would not have pleaded guilty. The district court did not find the testimony of Rodriguez Morales or his former girlfriend to be credible.

In a written order, the district court denied postconviction relief. The district court determined that Rodriguez Morales had not met his burden to show that his attorney’s performance was deficient and that he was prejudiced by the deficient performance.

Additionally, the district court rejected Rodriguez Morales's argument that revoking his conditional release before sentencing violated his plea agreement.

DECISION

Rodriguez Morales raises three issues on appeal. First, he argues that his attorney provided ineffective assistance of counsel by failing to advise him that he would face mandatory deportation even if he was sentenced to probation and that the district court could impose consecutive prison sentences. Second, he contends that the district court violated his plea agreement with the state by revoking his conditional release before sentencing. Third, and finally, Rodriguez Morales asserts that the district court erred by imposing a lifetime conditional-release term to follow his second sentence.³

I. Rodriguez Morales's claim of ineffective assistance of counsel fails because he cannot show that he was prejudiced by his attorney's allegedly deficient performance.

Rodriguez Morales argues that his convictions must be vacated because he was deprived of his constitutional right to the effective assistance of counsel. He contends that

³ We address two types of "conditional release" in this case. While the charges were pending and before sentencing, Rodriguez Morales was on pretrial and presentencing conditional release, which allowed him to remain in the community instead of in jail until the disposition of charges. *See* Minn. R. Crim. P. 6.02, subd. 1 (noting that a defendant must be released from custody during the pretrial stage of a criminal proceeding unless the district court finds that doing so would either endanger the public or would not guarantee the defendant's appearance at subsequent hearings). At sentencing, the district court imposed the second type of conditional release—two terms of conditional release that are part of Rodriguez Morales's sentences for his two convictions. This second type of conditional release is akin to additional supervised release that follows prison sentences for certain types of offenses. *See* Minn. Stat. § 609.3455, subds. 6, 7 (2018) (providing that some crimes, including most criminal-sexual-conduct offenses, require an additional period of supervision, referred to as conditional release, after a defendant completes an executed sentence).

his attorney incorrectly advised him that he would have an “argument” against deportation if he was sentenced to probation and that, “if he had known that his guilty plea automatically triggered deportation,” there is “a reasonable probability that he would not have pleaded guilty.” Additionally, Rodriguez Morales argues that his attorney did not inform him that he could receive consecutive sentences, and but for this omission, he would not have pleaded guilty. Because Rodriguez Morales cannot show that he was prejudiced by his attorney’s advice, we conclude that he did not receive ineffective assistance of counsel.

The right to effective assistance of counsel is guaranteed to all criminal defendants by the United States and Minnesota Constitutions. U.S. Const. amend. VI; Minn. Const. art. I, § 6. To establish a claim that counsel provided ineffective assistance in violation of this constitutional right, a defendant must satisfy both elements of the test articulated in *Strickland v. Washington*. 466 U.S. 668, 687 (1984). First, the defendant must prove that counsel’s performance “fell below an objective standard of reasonableness.” *Id.* at 687-88. Second, the defendant must prove prejudice resulting from counsel’s inadequate performance. *Id.* at 694. To prove prejudice, the defendant must show that, but for counsel’s deficient performance, there is a reasonable probability that the outcome of the proceeding would have been different. *Id.*; *Andersen v. State*, 830 N.W.2d 1, 10 (Minn. 2013). A defendant bears the burden of establishing both elements of an ineffective-assistance-of-counsel claim. *State v. Nowels*, 941 N.W.2d 430, 443 (Minn. App. 2020), *rev. denied* (Minn. June 16, 2020).

Appellate courts “review a district court’s application of the *Strickland* test de novo because it involves a mixed question of law and fact.” *State v. Mosley*, 895 N.W.2d 585, 591 (Minn. 2017). The appellate court considers whether the “[district] court’s factual findings . . . are supported in the record, conduct[s] a de novo review of the legal implication of those facts on the ineffective assistance claim, and either affirm[s] the court’s decision or conclude[s] that the court abused its discretion because postconviction relief is warranted.” *State v. Nicks*, 831 N.W.2d 493, 503-04 (Minn. 2013). When a defendant has failed to satisfy the burden of establishing one element of the *Strickland* test, the appellate court need not address the other element. *Peltier v. State*, 946 N.W.2d 369, 372 (Minn. 2020).

Here, the prejudice factor is dispositive because Rodriguez Morales has not shown that his attorney’s alleged errors affected his substantial rights. *See Strickland*, 466 U.S. at 694. A defendant must demonstrate that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *State v. Ecker*, 524 N.W.2d 712, 718 (Minn. 1994) (quotation omitted). In the context of a guilty plea, a defendant may establish prejudice by showing “a reasonable probability that, but for counsel’s errors, he would not have pleaded guilty and would have insisted on going to trial.” *Campos v. State*, 816 N.W.2d 480, 486 (Minn. 2012) (quotation omitted). A reasonable probability is “a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. “On the actual prejudice prong, the reviewing court considers all of the evidence before the district court.” *Johnson v. State*, 673 N.W.2d 144, 148 (Minn. 2004). “Courts should not upset a plea solely because of post hoc

assertions from a defendant about how he would have pleaded but for his attorney's deficiencies. Judges should instead look to contemporaneous evidence to substantiate a defendant's expressed preferences." *Lee v. United States*, 582 U.S. 357, 369 (2017).

As to prejudice, the district court found that Rodriguez Morales failed to provide any "credible evidence to suggest he only entered the plea based on misrepresentations or failings on the part of his attorney." Rather, the district court determined, Rodriguez Morales pleaded guilty because he believed there was a substantial likelihood that a jury would find him guilty and, without a plea agreement, he would receive an aggravated sentence.

We first consider whether the record supports the district court's factual findings regarding prejudice. In support of its finding that Rodriguez Morales pleaded guilty because he believed he would be found guilty and wanted to minimize his sentencing exposure, the district court noted the following facts, which are well supported by the postconviction record: Rodriguez Morales was charged with ten counts of criminal sexual conduct; if convicted, he faced consecutive sentences and possible aggravated sentencing departures; the plea offer "shaved more than ten years . . . off the prison sentence [he faced] if found guilty at trial"; the plea agreement provided Rodriguez Morales with a significant benefit; when entering his guilty pleas, Rodriguez Morales acknowledged there was a substantial likelihood a jury would find him guilty of the two offenses of conviction; and Rodriguez Morales's attorney counseled him *against* accepting the plea offer. The district court also found that the attorney accurately explained to Rodriguez Morales the potential sentences he faced under the plea agreement even if the attorney did not use the term

“consecutive.” We determine that the facts in the postconviction record support the district court’s finding that Rodriguez Morales pleaded guilty because he believed the jury would find him guilty and he hoped to receive a shorter sentence.

Rodriguez Morales testified at the postconviction hearing, as he argues now, that he pleaded guilty because he believed he could avoid deportation if he received probation and because he did not understand that he would still be subject to consecutive sentencing. But the district court found his testimony “wholly self-serving and lacking in credibility.” Because the district court rejected this testimony, we do not include it in our analysis. *See State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010) (“We recognize that the trier of fact is in the best position to determine credibility and weigh the evidence.”).

Next, applying de novo review, we consider whether the district court’s factual findings sustain the legal conclusion that there is no reasonable probability that, but for the attorney’s allegedly deficient performance, Rodriguez Morales would not have pleaded guilty. We conclude that the district court’s factual findings support the legal conclusion that the alleged deficient performance of Rodriguez Morales’s counsel did not affect the outcome of the proceeding. The district court found that Rodriguez Morales pleaded guilty because he wanted to prevent up to ten convictions, multiple prison sentences, and aggravated sentencing. Given this finding, there is no reasonable probability that Rodriguez Morales would not have entered the plea agreement but for his attorney’s assertion that a probationary sentence—which was not the state’s recommendation—would give him a possible argument against deportation. And there is no reasonable probability that any failure of the attorney to use the term “consecutive” while otherwise

accurately conveying Rodriguez Morales's sentencing exposure caused Rodriguez Morales to plead guilty. While these considerations may have further motivated Rodriguez Morales to plead guilty, there is no reasonable probability that they were the basis for his decision to plead guilty. Thus, Rodriguez Morales did not establish that he was prejudiced by the alleged deficiencies of his attorney. And because Rodriguez Morales's claim of ineffective assistance of counsel fails on the prejudice element of *Strickland*, we need not consider whether his attorney's performance was constitutionally deficient. *See Peltier*, 946 N.W.2d at 372.

We conclude that the district court did not err in rejecting Rodriguez Morales's claim of ineffective assistance of counsel. Accordingly, the district court did not abuse its discretion in denying postconviction relief on that ground. *See Matakis v. State*, 862 N.W.2d 33, 36 (Minn. 2015) (stating that an appellate court reviews a district court's denial of postconviction relief for an abuse of discretion).

II. Because Rodriguez Morales violated multiple conditions of his presentencing conditional release, the district court did not violate the plea agreement by revoking his release.

Rodriguez Morales argues that the district court violated his guilty-plea agreement with the state by revoking his presentencing conditional release three weeks before he was ultimately sentenced to prison. We are not persuaded.

Following a guilty verdict or plea, a district court has discretion to allow a defendant to reside in the community or to confine the defendant pending sentencing. Minn. R. Crim. P. 27.01. A defendant who wishes to await sentencing in the community "bears the burden of showing the defendant will not flee and is not a danger to others." *Id.* If a district court

elects to release a defendant, it must consider “the nature and circumstances of the offense charged” and “the community’s safety,” among other factors, and whether to impose conditions on the defendant’s release to ensure that the defendant will not flee or endanger the community. *See* Minn. R. Crim. P. 6.02, subd. 2 (listing the factors relevant to determining the conditions of release).

An appellate court reviews a district court’s pretrial release decisions for an abuse of discretion. *See State v. Martin*, 743 N.W.2d 261, 265 (Minn. 2008) (stating that a district court’s decisions regarding bail and conditions of release are reviewed for an abuse of discretion); *see also* Minn. R. Crim. P. 6.03, subd. 3 (providing a district court with discretion to revise conditions of pretrial release if a defendant violates a release condition). Because a district court similarly has discretion under rule 27.01 as to a defendant’s custody status following a guilty plea, it is axiomatic that such decisions likewise are reviewed for an abuse of discretion.

Before the trial and guilty pleas, Rodriguez Morales was in the community on pretrial conditional release. Pursuant to the plea agreement, the state recommended that he be allowed remain in the community on conditional release pending sentencing. The district court followed this recommendation but imposed additional conditions on Rodriguez Morales’s continued release, as it was entitled to do under rule 27.01. Rodriguez Morales failed to comply with some of these conditions. He did not obtain a psychosexual evaluation or a chemical-dependency evaluation, which was required to complete the PSI. He allegedly continued to use alcohol. And the district court was concerned that Rodriguez Morales was spending time around young children. Based on these violations, the district

court noted its grave concern about public safety and revoked Rodriguez Morales's conditional release three weeks before sentencing.

Although Rodriguez Morales characterizes the district court's decision as a violation of the plea agreement, we reject that framework. The plea agreement did not require the district court to maintain Rodriguez Morales on conditional release without regard to his compliance with the conditions imposed. Rodriguez Morales's continued release was dependent on his compliance with the conditions of release. Notwithstanding the plea agreement, the district court had discretion to confine Rodriguez Morales if Rodriguez Morales failed to comply with those conditions. *See* Minn. R. Crim. P. 27.01. Because Rodriguez Morales violated the conditions of his release, the district court was well within its discretion to revoke the conditional release and to confine him until sentencing.

III. The district court erred by imposing a term of lifetime conditional release to follow Rodriguez Morales's second sentence.

Rodriguez Morales challenges the district court's imposition of lifetime conditional release. The district court imposed two sentences—one for each count of conviction. For the first count, the district court sentenced Rodriguez Morales to 172 months in prison to be followed by a ten-year conditional-release period. As to the second count, the district court sentenced him to a consecutive 172-month prison sentence and then lifetime conditional release. Rodriguez Morales challenges the duration of the second conditional-release period—the lifetime term—arguing that the district court had no authority to impose such a term under the language of the conditional-release statute and the caselaw. On this issue, we agree with Rodriguez Morales.

An appellate court reviews de novo whether a sentence is authorized by law. *State v. Williams*, 771 N.W.2d 514, 520 (Minn. 2009). We first turn to the applicable law.

Minnesota law requires a ten-year conditional-release term to follow a prison sentence imposed for the offense of first-degree criminal sexual conduct under Minnesota Statutes section 609.342, subdivision 1(a)-(b) (2018)—which includes the offenses at issue here. Minn. Stat. § 609.3455, subd. 6. But if a defendant “has a previous or prior sex offense conviction,” the district court must impose a lifetime term of conditional release. *Id.*, subd. 7(b). A conviction is a “prior sex offense” if “the offender was convicted of committing a sex offense before the offender has been convicted of the present offense, regardless of whether the offender was convicted for the first offense before the commission of the present offense, and the convictions involved separate behavioral incidents.” *Id.*, subd. 1(g) (2018).

In *State v. Nodes*, the Minnesota Supreme Court addressed the effect of this statutory language when two convictions are entered during the same hearing. 863 N.W.2d 77, 80 (Minn. 2015). It clarified that a “prior sex offense conviction” is “a conviction for a separate behavioral incident entered before a second conviction, whether at different hearings or during the same hearing.” *Id.* at 82. Thus, a defendant “who, in a single hearing, is convicted of two sex offenses, one immediately after the other, each arising out of separate behavioral incidents, has a ‘prior sex offense conviction’ under Minn. Stat. § 609.3455.” *Id.* at 77.

However, when two convictions are entered simultaneously—“[w]ith no temporal gap whatsoever between a district court’s adjudication of offenses”—neither of these

convictions is a “prior sex-offense conviction.” *State v. Brown*, 937 N.W.2d 146, 157 (Minn. App. 2019), *rev. denied* (Minn. Feb. 18, 2020). Under these circumstances, and when the defendant has no other qualifying convictions, the defendant is not subject to lifetime conditional release. *Id.*

Rodriguez Morales contends that he did not have a “prior sex offense conviction” at the time of his sentencing hearing because the district court simultaneously entered convictions for both offenses at his guilty-plea hearing. The state counters that the district court entered the convictions sequentially at the sentencing hearing and, for that reason, Rodriguez Morales had a “prior sex offense conviction” when the district court imposed lifetime conditional release.

To decide whether Rodriguez Morales had a “prior sex offense conviction” when the district court imposed the lifetime conditional-release period, we must identify when the district court convicted Rodriguez Morales of the two offenses in his case and determine whether the convictions were simultaneously or sequentially entered. “A guilty verdict alone is not a conviction.” *Spann v. State*, 740 N.W.2d 570, 573 (Minn. 2007). Instead, a conviction occurs when the district court adjudicates a defendant guilty on the record. *Nodes*, 863 N.W.2d at 81. “For accepted pleas, verdicts, or findings of guilt to become convictions under Minnesota law, the conviction must be recorded.” *State v. Jeffries*, 806 N.W.2d 56, 63 (Minn. 2011) (quotation omitted). “The general practice, and a practice to which district courts should adhere, is to have the conviction recorded and appear in a judgment entered in the file.” *Id.* (quotation omitted).

To determine “whether an offense has been formally adjudicated,” the reviewing court “look[s] to the official judgment of conviction in the district court file as conclusive evidence” of this fact. *Spann*, 740 N.W.2d at 573 (quotation omitted); *see also State v. Pflepsen*, 590 N.W.2d 759, 767 (Minn. 1999) (“Because the testimony and statements recorded in hearing and trial transcripts are often imprecise and unclear with respect to sentencing and conviction orders, we typically look to the official judgment of conviction, which generally appears as a separate entry in the file, as conclusive evidence of whether an offense has been formally adjudicated.”); *Nodes*, 863 N.W.2d at 81 (noting that the official judgment of conviction “generally appears as a separate entry in the file”). *Cf. State v. Staloch*, 643 N.W.2d 329, 331 (Minn. App. 2002) (stating that, when a district court’s oral pronouncement conflicts with the warrant of commitment, the oral pronouncement controls).

Although we acknowledge that this is a close issue, we agree with Rodriguez Morales that the district court entered convictions for both counts simultaneously before sentencing, and thus, Rodriguez Morales did not have a “prior sex offense conviction” when he was sentenced.⁴ The state identifies portions of the record that support its argument. As the state notes, at the sentencing hearing in December 2021, the district court sentenced Rodriguez Morales first for Count 6, imposing a ten-year conditional-release period, and then for Count 3, imposing lifetime conditional release. Additionally, the warrant of commitment reflects that Rodriguez Morales was convicted of the offenses on

⁴ We also acknowledge that Rodriguez Morales stated during his guilty-plea hearing that he understood he would receive lifetime conditional release.

the date of sentencing. Both the district court's practice at sentencing of imposing one sentence followed by another and the warrant of commitment suggest that the convictions were separately entered in December 2021.

But we are more persuaded by other evidence in the record that the district court simultaneously entered the two convictions before the sentencing hearing. We base our decision on two events in the record. First, after Rodriguez Morales entered the guilty pleas at the guilty-plea hearing, the district court accepted the pleas and stated, "Judgment of convictions will be entered for both Counts 3 and 6. The balance of the counts are hereby dismissed." Second, three weeks before sentencing, in November 2021, the district court issued a written order entitled, "Findings of Guilt," which states that "1. Judgment of conviction shall be entered adjudicating Defendant guilty of Count 3 . . ." and "2. Judgment of conviction shall be entered adjudicating Defendant guilty of Count 6." These events convince us that the convictions were entered before sentencing and that they were entered simultaneously.

Because we conclude that the convictions were entered and recorded simultaneously, the first offense was not a "prior sex offense conviction" for the second offense. Thus, the district court erred by imposing a lifetime conditional-release period to follow Rodriguez Morales's prison sentence for the second conviction. We accordingly reverse the district court's imposition of lifetime conditional release and remand for the imposition of a ten-year term of conditional release.

Affirmed in part, reversed in part, and remanded.